IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1302 OF 2006.

Smt.Shubhangi Ramdas Gawas. ... Appellant.
Versus.
The Union of India. ... Respondent.

Shri G.I.Mohan Rao for the Appellant.

None for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 15th June, 2006.

P.C.:

1. Heard the learned Counsel appearing for the Appellant. An application for compensation under section 125 of the Railways Act, 1989 (hereinafter referred to as "the said Act") made by the Appellant is rejected by the Railway Claims Tribunal, Mumbai Bench, Mumbai. The order of rejection is impugned in this Appeal.

2. One Smt.Sarita Sunil Gawas died in an accident while travelling in a train bearing No.904 UP Holiday Special on 22nd June 2003. The present Appellant who applied under section 125 of the said Act is the mother-in-law of the deceased. The learned Members of the Railway Claims Tribunal have dismissed the claim petition on the ground that the claimant mother-in-law cannot be a dependant within the meaning of the said Act.

3. The learned Advocate appearing for the Appellant submitted that the Appellant was entitled to lead evidence as a matter of right to show that she was a dependant within the meaning of the said Act and therefore as an opportunity was not given by the Tribunal to lead evidence, the claim petition deserves to be remanded to the Tribunal.

4. I have considered the submissions. Section 125 of the said Act forms part of Chapter XIII of the said Act. Section 125 reads thus:

> "125. Application for compensation. - (1) An application for compensation under section 124 (or section 124A) may be made in the Claims Tribunal -
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> (a) by the person who has sustained the injury or suffered any loss, or
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> (b) by any agent duly authorised by such person in this behalf, or
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> (c) where such person is a minor, by his guardian, or
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> (d) where death has resulted from the accident, (or the untoward incident) by

any dependant of the deceased or where such a dependant is a minor, by his guardian.

(2) Every application by a dependant for compensation under this section shall be for the benefit of every other dependant."

Section 123(b) defines the word "dependant" which reads thus:

"123.Definitions. - In this Chapter, unless the context otherwise requires.-

(a).....

(b). "dependant" means any of the following relatives of a deceased passenger, namely :-

(i) the wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent;

(ii) the parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-deceased son, if dependant wholly or partly on the deceased passenger;

(iii)a minor child of a pre-deceased daughter, if wholly dependant on the deceased passenger;

(iv) the paternal grand parent wholly dependant on the deceased passenger."

5. The definition of the word "dependant" appears to be exhaustive. On a plain reading of the definition, the mother-in-law cannot fit in the category of the "dependant" as defined in clause (b) of section 123 of the said Act. No amount of evidence will advance the case of the Appellant as the statute itself excludes the Appellant from the definition of the word "dependant".

6. No fault can be found with the view taken by the learned Members of the Railway Tribunal. Accordingly the Appeal is dismissed with no order as to costs.

Judge.